

Co., 770 F.2d 26, 29 (3d Cir. 1985); see also Johnson v. SmithKline Beecham Corp., 724 F.3d 337, 346 (3d Cir. 2013), and noting that Van Every argues that the John Doe (“Doe”) defendant named in her complaint precludes federal diversity jurisdiction, and the court observing that a Doe defendant destroys diversity when (1) plaintiff’s allegations establish that the Doe defendant is not a “sham” named out of “ ‘superstition’ rather than any actual hope of obtaining a judgment,” and (2) plaintiff did not fraudulently join the Doe defendant but has a colorable ground for the claim against him, and intends to pursue this claim, Abels, 770 F.2d at 29-30, 32 (citing Pullman Co. v. Jenkins, 305 U.S. 534, 540-41 (1939)); see also Frisof v. Swift Transp. Co., Inc., No. 3:07-CV-2331, 2008 WL 2550767, at *1-2 (M.D. Pa. June 23, 2008), and the court noting that the parties do not dispute that Van Every meets the two aforementioned criteria,¹ and thus concluding that it lacks subject matter jurisdiction in the instant action and that in light of this conclusion the court need

¹ FFE urges the court to dismiss the Doe defendant as a non-diverse, dispensable party pursuant to Rule 21 of the Federal Rules of Civil Procedure. See FED. R. CIV. P. 21 (stating that “the court may at any time, on just terms, add or drop a party”). However, the court’s consideration of the propriety of removal ends when the plaintiff satisfies the two-part test summarized herein. See Abels, 770 F.2d at 29, 32 n.8 (declining to assess whether a Doe defendant was indispensable when analyzing the propriety of removal in the first instance).

not consider Van Every's additional arguments in favor of remand, it is hereby

ORDERED that:

1. Plaintiff's motion (Doc. 8) to remand the above-captioned matter to the Court of Common Pleas for Cumberland County, Pennsylvania, is GRANTED.
2. This matter shall be REMANDED to the Court of Common Pleas for Cumberland County, Pennsylvania.
3. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania